

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 12660 OF 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of
the judgment ?

4 Whether this case involves a substantial question of
law as to the interpretation of the Constitution of
India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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PARBATBHAI BACHUBHAI CHAVDA & ORS.- Petitioner(s)

Versus

EXECUTIVE ENGINEER & ORS. - Respondent(s)

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Appearance :

Shri K.D. Pandya for Shri Mukesh H. Rathod for Petitioners.

Ms. Manisha Lavkumar, Assistant Government Pleader for Respondents.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 04/07/2007

ORAL JUDGMENT

1. The short facts necessary for disposal of the present Writ Application are that the petitioners-workmen succeeded before the

learned Labour Court, Rajkot in Reference (LCR) Nos.326 of 1988 to 333 of 1988, they were ordered to be reinstated with 25% back-wages, but, however, no specific direction relating to continuity of service was issued; taking advantage of the same, the respondents were not ready and willing to give the benefit of continuity. The petitioners, therefore, filed Special Civil Application No.1867 of 1999, which was disposed of by this Court on 1st September, 1999 with a direction to the other side to consider the petitioners' representation dated 17th April, 1998.

1.1 Undisputedly, the representation was in relation to many reliefs, one of which was relating to continuity in the services. By an order dated 19th June, 2000, the respondents decided the representation, but, however, did not make any order in relation to continuity of service. The petitioners are again before this Court.

2. At the very outset, I asked the learned Counsel for the respondent-State that what is the consideration about continuity of the service, the learned Counsel, however, submitted that it appears that the said subject had escaped the notice of the concerned authority and, therefore, no orders in relation to continuity of service have been made.

3. As the order dated 19th June, 2000, so far as it relates to non-consideration of continuity of service, is not in accordance with the

directions of this Court, the petition is allowed with a direction to the respondents that within a period of 21 days from the date of receipt of this order, the concerned Officer shall decide the representation dated 17th April, 1998 in relation to continuity of service only. It is, however, made clear that the jurisdiction of the authority would be to decide the question of continuity of service only and nothing beyond that. The concerned Executive Engineer and Superintending Engineer are hereby forewarned that if this time they do not observe the true spirit of this order, then, they would be exposing themselves to a serious risk.

4. The petition to the extent indicated above is allowed. Rule is made absolute. No costs.

Direct Service is permitted.

[R.S.Garg, J.]

*kamlesh**